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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/960,083 | 09/21/2001 | Michael E. Beard | RTI Energy-4 | 4353 |

7590 07/15/2003

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EXAMINER

KRECK, JOHN J

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| ART UNIT | PAPER NUMBER |
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3673

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/960,083

Applicant(s)

BEARD ET AL.

Examiner

John Kreck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-14 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-14,22-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

The amendment dated 5/19/03 has been entered.

Claims 1-7, 9-14, and 22-29 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 13, 14, 22, 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Langner (U.S. Patent number 5,269,629).

Langner shows a receptacle assembly (see figure 10) comprising a mounting bracket (75, 76, 80, 81) fixedly attached to a structure (30) and a receptacle basket (72) having an annular body with a throughbore and a frustoconical basket supporting surface as called for in claim 1.

Langner also shows the bracket fixed so that the elongate member is positioned off a side of the production structure as called for in claim 13.

Langner also shows the bore at a selected azimuth and elevation as called for in claim 14.

Regarding independent claim 22:

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Langner shows a receptacle assembly comprising a mounting bracket (75, 76, 80, 81) fixedly secured to a structure (30) and a receptacle basket (72) having a central throughbore and a basket supporting surface complimentary to a surface on the elongate member and the basket supporting surface arranged that the elongate member is positioned off a side of the production structure as called for in claim 22.

Regarding independent claim 26:

Langner shows a receptacle assembly (see figure 10) comprising a mounting bracket (75, 76, 80, 81) fixedly attached to a structure (30) and a receptacle basket (72) having an annular body with a throughbore and a frustoconical basket supporting surface; the throughbore having a selected azimuth and declination, such that the elongate member is positioned of the side of the structure as called for in claim 26.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2-4, 12, 24, 25, 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langner in view of Marshall (U.S. Patent number 5,447,392).

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Langner shows all of the limitations of claims 1 , 22, and 26 from which these claims depend.

Langner fails to show the basket movable in relation to the bracket, the adjustment member, and the stop.

Marshall shows a similar apparatus which includes the basket movable in relation to a mounting bracket (see figure 5) in order to reduce stress on the joint.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner device to have included the basket movable in relation to a mounting bracket as called for in claims 2, 24, and 27, and as taught by Marshall, in order to reduce stress on the joint.

Marshall also shows the basket pivotally supported on the bracket and movable about a horizontal axis, in order to reduce stress. It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Langner device to have included the basket pivotally supported on the mounting bracket and movable about a horizontal axis, as called for in claim 3, and as taught by Marshall, in order to reduce stress on the joint.

Marshall also shows the adjustment member (112), which allows the basket to be moved in order to reduce stress. It would have been further obvious to one of ordinary skill in the art at the time of the invention to have further modified the Langner device to have included the adjustment member (112), as called for in claims 4 and 25, and as taught by Marshall, in order to reduce stress on the joint.

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Marshall shows a similar apparatus which has a stop (the cylinder 112 acts as a stop) to limit movement of the basket.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner device to have included the stop as called for in claim 12, and as taught by Marshall, in order to limit movement of the basket.

3. Claims 5-7, 9-11, 23, 28, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Langner in view of Recalde (U.S. Patent number 3,922,870).

Langner shows all of the limitations of claims 1, 22, and 26 from which these claims depend.

Langner fails to show the receiving/projecting members, bracket plates, horizontal pin, slot, and locking member.

Recalde shows a similar apparatus which includes receiving/projecting members (30, 32, 40, 42, 44, 46), bracket plates (40, 42, 46), horizontal pin (32), slot (44), and locking member (48) to attach an elongated member support to a structure. The hardware shown by Recalde allows for the easy removal and reattachment of the device.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner apparatus to have included a receiving member on one and projecting member on the other of the bracket and basket as called for in claims 5, 23, and 28; in order to allow for the easy removal and reattachment of the device.

Also, with regards to the arrangement of the projecting/receiving member, etc; although Langner shows a receiving member on the structure side of the apparatus, the specific arrangement of the projecting/receiving members is considered to be a matter of design choice: it is well established that the reversal of parts is not a patentable distinction. See *In re Gazda*, 219 F.2d 449, 104 USPQ 400 (CCPA 1955) (Prior art disclosed a clock fixed to the stationary steering wheel column of an automobile while the gear for winding the clock moves with steering wheel; mere reversal of such movement, so the clock moves with wheel, was held to be an obvious expedient.).

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner apparatus to have included a projecting member on the basket and receiving member on the bracket as called for in claim 6, in order to allow for the easy removal and reattachment of the device.

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner apparatus to have included a projecting member on the bracket and receiving member on the basket as called for in claim 7, in order to allow for the easy removal and reattachment of the device.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner apparatus to have included a left and right side bracket plate and horizontal pin as called for in claims 9 and 29, in order to allow for the easy removal and reattachment of the device.

It would have been further obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner apparatus to have included a slot as called for in claim 10, in order to allow for the easy removal and reattachment of the device.

It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the Langner apparatus to have included a locking member as called for in claim 11, in order to allow for the easy removal and reattachment of the device.

Response to Arguments

4. Applicant's arguments filed 5/19/03 have been fully considered but they are not persuasive. Applicant has argued that Langner fails to teach a frustoconical supporting surface, since the frustoconical surface of Langner is a "guiding" rather than "supporting" surface. Applicant has failed to point out how the guiding surface of Langner differs structurally from the claimed supporting surface. It is readily apparent that the surface (72) of Langner can perform the supporting function.

With regards to applicant's arguments concerning the selected azimuth and declination; it is agreed that Langner teaches the selected declination; and furthermore, the selected azimuth is shown implicitly in figures 7 and 8. In figures 7 and 8; the basket is clearly shown to be oriented in a direction off the side of the structure. This direction is inherently an "azimuth"; and is inherently "selected" by the person who put it there.

With regards to the Marshall reference; applicant's arguments regarding the intended use of the apparatus are not persuasive; the Marshall device is capable of

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performing the claimed functions. Applicant has not pointed out how the claimed invention differs structurally from the references. In particular, with regards to claim 12; the strut of Marshall clearly will limit the movement of the basket.

5. In response to applicant's argument that Recalde is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the field of running pipeline from a ship is reasonably pertinent to the problem of suspending pipeline from an offshore platform.

With regards to claim 6, 7, and 9-11; the Recalde reference is not cited for a teaching of a basket; the basket is taught by Langner. Recalde is cited for teachings of mounting pins and brackets.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kreck whose telephone number is (703)308-2725. The examiner can normally be reached on M-F 6:00 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703)308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3597 for regular communications and (703)305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)306-4177.

JJK
July 1, 2003


HEATHER SHACKELFORD
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